

**AMENDMENTS TO THE DRAWINGS**

The attached sheet of drawings includes changes to Figure 1. This sheet replaces the original sheet. Figure 1 has been amended to conform more clearly with its corresponding detailed description.

Attachment: Replacement Drawing Sheet

REMARKS

Applicant acknowledges receipt of the Examiner's Office Action dated October 19, 2006, which rejected all claims pending at that time. Specifically, all claims were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent Application 2003/0014432 filed by Teloh et al. (Teloh). In light of the foregoing amendments and following remarks, Applicants respectfully request the Examiner's reconsideration and reexamination of all pending claims.

Independent claims 1, 8, and 15 stand rejected under 35 U.S.C. § 102 as being anticipated by Teloh. Applicants have amended independent claims 1, 8, and 15 to include limitations that are not taught or fairly suggested in the sections of Teloh cited in the last Office Action, either alone or in combination with the remaining limitations of these independent claims. As such, Applicants assert that independent claims 1, 8, and 15 are patentably distinguishable over the cited sections of Teloh.

Independent claims 3, 10, and 17 were rejected as being anticipated by Teloh. With respect to independent claim 3, the Office Action asserts that sections of Teloh recite asynchronous replication to a third node. Applicants traverse this rejection. The Office Action asserts that Teloh teaches the claimed invention in Figure 9 and paragraphs [0018], [0042], and [0048]. With respect to paragraph [0042] of Teloh, the Office Action asserts that each replication facility "supports synchronous data replication and synchronous data replication." Paragraph [0042] of Teloh describes synchronous and asynchronous replication. However, the synchronous and asynchronous replication in paragraph [0042] is described with reference to Teloh's system of Figure 1, not Figure 9. More particularly, paragraph [0042] states, "Fig. 1 illustrates an exemplary system 10 suitable for practicing the asynchronous and the synchronous

data replication techniques of the illustrative embodiment.” Figure 1 of Teloh, however, shows only two nodes 12 and 14, whereas independent claim 3 requires three nodes (i.e., first, second, and third nodes), wherein data to be written to a data volume of a first node is asynchronously replicated to a data volume of a second node, and data to be written to the data volume of the second node is asynchronously replicated to a data volume of a third node. Clearly, Figure 1 does not disclose these features of independent claim 3. Paragraph [0042] does not describe each replication facility within Fig. 9 capable of supporting synchronous data replication and asynchronous data replication.

The Office Action also asserts that Teloh teaches in one embodiment that the replication of data from storage device 24 to storage device 26 (see Fig. 9) is synchronous and the replication of data from storage device 26 to storage device 26’ is asynchronous citing paragraph [0018] in support thereof. The Office Action then asserts that in another embodiment, Teloh replicates data from data storage 24 to data storage 26 asynchronously citing paragraph [0058] in support thereof. Paragraph [0018] does not reference data storage devices 24, 26, and 26’ shown in Fig. 9. At best, paragraph [0018] describes replicating data between a first network location and a first remote network location in a synchronous manner, and the first remote network location replicating data to a second remote network location in an asynchronous manner. Again, however, paragraph [0018] does not reference Fig. 9. Accordingly, Applicants traverse the assertion that Teloh teaches in paragraph [0018] the replication of data from storage device 24 to storage device 26 is synchronous and from storage device 26 to storage device 26’ is asynchronous. Moreover, Applicant traverses the assertion that paragraph [0058] of Teloh teaches replicating data from storage device 24 to storage device 26 asynchronously. Paragraph [0058] of Teloh describes copying data from the local storage device 24 to the remote storage

device 26 in an asynchronous data mirroring environment. Specifically, paragraph [0058] recites, “the ability to copy data from the local storage device 24 to the remote storage device 26 to ensure data uniformity in an asynchronous data mirroring environment does not impede any rights that occur to the local storage device 24 when remote mirroring is halted.” The foregoing quote of paragraph [0058] is vague at best. At the very least, paragraph [0058] does not teach or fairly suggest asynchronously replicating data to a data volume of a second node as required in independent claim 3. Accordingly, Applicant submits that independent claim 3 is patentably distinguishable over the cited sections of Teloh.

Independent claims 10 ad 17 contain limitations similar to or identical to the limitations of independent claim 3 discussed above. Insofar as independent claim 3 has been shown to be patentably distinguishable over the cited sections of Teloh, it follows that independent claims 10 and 17 are likewise patentably distinguishable.

The remaining depend directly or indirectly from claims 3, 10, and 17. Because claim 3, 10, and 17 have been shown to be patentably distinguishable over the cited sections of Teloh, it follows the remaining claims are likewise patentably distinguishable.

**CONCLUSION**

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5093.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop RCE, COMMISSIONER FOR PATENTS, P. O. Box 1450, Alexandria, VA 22313-1450, on January 19, 2007.

  
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1/19/07  
Date of Signature

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